

July 18, 2024

Jeff Smith
987 3 Mile Rd NE
Grand Rapids, MI 49505

Email: sjeff987@gmail.com

RE: FREEDOM OF INFORMATION ACT REQUEST

Greetings:

The Grand Rapids Police Department received your request for records and processed it under the provisions of the Michigan Freedom of Information Act (P.A. 442 of 1976). The request was for the following item(s):

Any documentation from the GRPD that is specific to protests demanding justice for Patrick Lyoya from 4/4/2022 to 4/4/2023 including marches, rallies, vigils, workshops, press conferences, city commission meetings (where the GRPD had a presence because of those demanding Justice for Patrick) public information sharing – handing out flyers etc. in the community.

A final search resulted in thirteen (13) incident reports, five (5) SRT operational plans, one (1) Michigan State Police operational plan, one (1) Kent County Sheriff's Department operational plan, four (4) situational awareness documents, one (1) wanted document, one (1) incident radio communications plan and twelve (12) GRPD operational plans. One (1) incident report was released to you in the original response. The remaining twelve (12) incident reports will be provided hereafter. The final cost to produce these records is \$193.19.

Please submit a check payable to the Grand Rapids Police Department for \$112.97. This is the remaining balance after your initial deposit payment of \$80.22 was applied to the final cost. An itemized invoice is attached. Your request is GRANTED in part and DENIED in part based on the following:

Drafts of GRPD operational documents are withheld as nonrecords where the draft has been replaced by a new or final version. Alternatively, to the extent such documents are considered public records, one is withheld under MCL 15.243(1)(g); all are withheld under MCL 15.243(1)(m) for the reasons outlined above. Release of draft documents of the type at issue here would discourage the preparation of such written communications and would negatively impact the quality of the final official public record. The final versions have been provided in response to this request.

MCL 15.243 §§ 13(1)(a) and 13(1)(b)(iii) of the Michigan Freedom of Information Act exempts from disclosure those records which would constitute an unwarranted invasion of personal privacy. Therefore, portions of the report (addresses, phone numbers, etc.) that fall within the above-mentioned statute have been redacted.

Information from the Criminal Justice Information System (CJIS) has been redacted pursuant to MCL 15.243(1)(d) [records or information specifically described and exempted from disclosure by statute] in conjunction with MCL 28.214(5) and related regulations. Mich. Admin. Code R 28.5208(4).

Driver's license information, including images, have been redacted under MCL 15.243(1)(d) in coordination with the Driver's Privacy Protection Act [18 USC §§ 2127-25].

MCL 15.243(1)(s)(iii), disclosure of the personal address or telephone number of active or retired law enforcement officers or agents or a special skill they may have.

Pursuant to MCL 15.243(1)(s)(ii) information has been withheld because it would provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

Please be advised that under MCL 15.243(1)(a)(information of a personal nature release of which would constitute a clearly unwarranted invasion of an individual's privacy) and MCL 15.243(1)(b)(iii) (law enforcement records release of which would constitute an unwarranted invasion of personal privacy). It is the City's position that the public interest in the disclosure of this information is outweighed by the public interest in keeping this information private. The core purpose of the FOIA is to contribute significantly to public understanding of the operations or activities of the government. Requests for information on private citizens accumulated in government files that reveal little to nothing about the inner working of government do not serve the core purpose of the FOIA. See *ESPN, Inc., v Michigan State University*, 311 Mich. App. 662 (2015). In this instance, release of the requested records does not reveal the inner workings of government and therefore does not serve the core purpose of the FOIA. Therefore, portions of the report (names, addresses, phone numbers, dates of birth, etc.) that fall within the above-mentioned statute have been redacted, and that requested information which is withheld is considered denied.

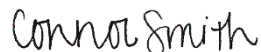
Information that would reveal number of officers assigned, where/how personnel or equipment was deployed, operational directives to specific officers or units, and investigative or tactical techniques utilized has been redacted pursuant to MCL 15.243(1)(b)(v)(disclosure of law enforcement investigative techniques or procedures), MCL 15.243(1)(n) (plans for deployment of law enforcement personnel); MCL 15.243(1)(s)(v) (disclose operational instructions for law enforcement officers); and MCL 15.243(1)(s)(vi) (disclose contents of staff manuals provided for law enforcement officers or agents); Safe and effective crowd control management is a complex and highly coordinated undertaking that requires a significant amount of planning to maximize use of limited municipal resources—especially when the crowd is a mobile mass demonstration for which plans and routes are not provided to the public body. In this instance, the public interest in disclosure of this information is outweighed by the public interest in nondisclosure because release of these details would reduce or even nullify the effectiveness of these techniques.

You have certain rights to appeal the partial denial of your record request. You may either appeal to the City Commission within 48 days of this letter or commence a Kent County Circuit Court action within 180 days of this letter. Your appeal rights and rights to damages for improper denial are specifically set out in Section 10 of the Act. You also have certain rights to appeal a fee charged for your records request as set out in Section 10a of the Act. A copy of the City of Grand Rapids FOIA policy, including your right to appeal, is enclosed. A copy of the City of Grand Rapids' Freedom of Information Act Procedures and Guidelines and written public summary is available on the City's website at the following location:

<https://www.grandrapidsmi.gov/Government/Policies-and-Orders/Administrative-Policies/Freedom-of-Information-Act-91-02>

Please refer all responses to **FOIA 23-0809**.

Thank you,



Connor Smith, Records Unit Manager
FOIA Coordinator, Grand Rapids Police Department

**GRAND RAPIDS POLICE DEPARTMENT FOIA UNIT
FINAL CALCULATION OF FEES AND COSTS
FREEDOM OF INFORMATION ACT (FOIA) 23-0809**

LABOR* - Search, location and examination of records:

Police Records Clerk

Hourly rate	$\$17.13 \times 1.5$ (fringe benefit multiplier) = \$25.70	
	x .5 hour	= \$12.85

REDACTION – Separation of exempt from nonexempt information:

Police Records Specialist

Hourly rate	$\$25.73 \times 1.5$ (FRINGE BENEFIT MULTIPLIER) = \$38.50	
	X 3.15 hours	= \$125.12

City Attorney I

Hourly rate	$\$36.81 \times 1.5$ (FRINGE BENEFIT MULTIPLIER) = \$55.22	
	X 1 hour	= \$55.22

DUPLICATION, COPYING & TRANSFERING RECORDS:

Police Records Clerk

Hourly rate	$\$17.13 \times 1.5$ (fringe benefit multiplier) = \$25.70	
	x 0 hours	= \$0

TOTAL COST TO PRODUCE THE REQUESTED RECORDS:	\$193.19
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50% DEPOSIT PAID:	\$80.22
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REMAINING BALANCE:	\$112.97
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Please make payment to “Grand Rapids Police Department” and forward to: FOIA Coordinator, 1 Monroe Center St. NW, Grand Rapids, MI 49503

* Hourly rates reflect the wage of the lowest paid employee capable of performing the work.

** Rounded down to the nearest ¼ hour.

^ Rounded down to the nearest 1/10 hour.

Grand Rapids FOIA Procedures and Guidelines and Written Public Summary are available at www.grcity.us/FOIA

RIGHT TO SEEK JUDICIAL REVIEW

APPEALING A DENIAL OR PARTIAL DENIAL

Sec. 10. (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorney's fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

APPEALING A FEE

Sec. 10a. (1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this

RIGHT TO SEEK JUDICIAL REVIEW

subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

- (i) The public body does not provide for appeals under this subdivision (a).
- (ii) The head of the public body failed to respond to a written appeal as required under subsection (2).
- (iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

- (a) Waive the fee.
- (b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.
- (c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.
- (d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of the public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorney's fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

Sec. 10b. If the court determines, in an action commenced under this act, that a public body willfully and intentionally failed to comply with this act or otherwise acted in bad faith, the court shall order the public body to pay, in addition to any other award or sanction, a civil fine of not less than \$2,500.00 or more than \$7,500.00 for each occurrence. In determining the amount of the civil fine, the court shall consider the budget of the public body and whether the public body has previously been assessed penalties for violations of this act. The civil fine shall be deposited in the general fund of the state treasury.